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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,642	09/26/2003	Andi J. Mikelsons	4767-00050	8216
26753	7590	07/27/2005	EXAMINER	
ANDRUS, SCEALES, STARKE & SAWALL, LLP 100 EAST WISCONSIN AVENUE, SUITE 1100 MILWAUKEE, WI 53202			HAUGLAND, SCOTT J	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/672,642	Applicant(s) MIKELSONS ET AL.	
	Examiner Scott Haugland	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-19, 21, 24-26, 32, 34-37, 40-42, 47, 48 and 69-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 48 and 69-71 is/are allowed.
- 6) ☒ Claim(s) 17-19, 21, 24-26 and 47 is/are rejected.
- 7) ☒ Claim(s) 32, 34-37, and 40-42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 32, 34-37, and 40-42 are objected to because of the following informalities:

In claim 32, line 15, claim 34, line 15, claim 35, line 15, and claim 40, line 15, "comprising a motor having" should be --wherein said motor has-- or similar language since the motor was previously recited.

In claim 40, line 9, "." should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace (U.S. Patent No. 3,620,431).

Wallace discloses a loading system for loading an elongated strand of food product 30 of a given diameter on a transport conveyor 46 comprising a first loading conveyor 41 and a second loading conveyor 40 spaced above the first loading

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conveyor. The spacing between the first and second loading conveyors is less than or equal to the diameter of the strand (col. 3, lines 9-11). The strand is conveyed by an indexed drive that is indexed to travel a fixed distance equal to the number of tubular segment in a hang pattern (col. 4, lines 35-42) during the time between presentation of successive hangers of the transport conveyor.

Wallace does not disclose idle rollers upstream of the first loading conveyor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Wallace with idle rollers upstream of the loading conveyors 39 or make rollers 31 of Wallace idle rollers since it is old and well known to guide materials using idle rollers. It would have been obvious to locate the idle rollers below the level of the loading conveyors to bridge the gap between the support 19 and the level of the conveyor. Note that the claim does not exclude a conveyor such as 32 between the idle roller and the loading conveyor 39.

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Gage et al (U.S. Patent No. 1,654,871).

Wallace is described above.

Wallace does not disclose that the downstream end of the second loading conveyor is spaced upstream from the downstream end of the first loading conveyor or that the upstream end of the second loading conveyor is spaced upstream of the upstream end of the first loading conveyor.

Gage et al teaches making an upper conveyor (including chain 59) of a feeder for a strand of food product shorter than a lower conveyer (including chain 65) and spacing the upstream and downstream ends of the upper conveyor upstream of the respective ends of the lower conveyor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the length of the second loading conveyor less than the first loading conveyor, to space the upstream and downstream ends of the second loading conveyor upstream of the corresponding ends of the first loading conveyor, and to make the spacing between the downstream ends greater than that of the upstream ends as taught by Gage et al since only the lower (first) conveyor of Wallace provides support against gravity for the strand, allowing the upper (second) conveyor length to be minimized by reducing its length to reduce size and expense of the conveyors and since it is clear from Gage et al that the upstream end of upper conveyor may extend upstream of the upstream end of the lower conveyor without adversely affecting operation of the conveyors while allowing different size pulleys to be used.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Babbin et al (U.S. Patent No. 3,946,918).

Wallace is described above.

Wallace does not disclose a faceplate having an entrance guide comprising an inlet cone or idle rollers upstream of the loading conveyors 39.

Babbin et al teaches providing a conveyor for strand material with a face plate 12 blocking access to conveyor belts and pulleys and having an entrance guide for the strand comprising an annular bushing having a tapering inlet cone. Babbin et al further teaches driving a pair of drive pulleys of the conveyor by means of a single drive. Babbin et al further teaches providing a first driven gear on a first shaft rotatable about a first axis, a second driven gear on a second shaft rotatable about a second axis, and a drive gear on a drive shaft rotatable about a third axis.

With regard to claim 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made provide the loading conveyors of Wallace with a faceplate having an entrance guide comprising an annular bushing having a tapering inlet cone as taught by Babbin et al to limit access to the feeding conveyors and their components for protection of workers and to maintain sanitary conditions. Note that the second rotary conveyor pulley is rearward of the first rotary conveyor pulley and the inlet of the modified apparatus of Wallace is rearward of the first rotary conveyor pulley when the rearward direction is, for example, in the direction from the axis of rotation of the downstream pulley of the first (lower) conveyor toward the axis of rotation of the upstream pulley of the second (upper) conveyor.

With regard to claims 25 and 26, it would have been further obvious to provide idle rollers upstream of the loading conveyors 39 or make rollers 31 of Wallace idle rollers since it is old and well known to guide materials using idle rollers. It would have been obvious to locate the idle rollers below the level of the inlets to the loading conveyors to bridge the gap between the support 19 and the level of the inlets.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace in view of Karius (U.S. Patent No. 3,054,545) and Gage et al.

Wallace is described above.

Wallace does not disclose a roller cam adjustably movable toward and away from conveyor belts of the loading conveyors. Wallace does not disclose that the upstream pulley of the second conveyor is spaced rearwardly of the upstream pulley of the first conveyor.

Karius teaches providing a roller cam 100 for adjusting the gap between conveyors for a strand of food product.

Gage et al teaches spacing the upstream and downstream ends of the upper conveyor upstream of the respective ends of the lower conveyor.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Wallace with a roller cam adjustably engaging one of the belts as taught by Karius to permit adjustment of the gap between the conveyors without moving the conveyor pulleys or their supports, thereby providing a simple adjustment mechanism. It would have been a matter of obvious engineering choice to locate the roller cam on the second (upper) conveyor belt of Wallace since it would obviously be effective if applied to either belt.

It would have been further obvious to space the second upstream rotary pulley of Wallace rearwardly (upstream) from the first upstream rotary pulley as taught by Gage et al since it is clear from Gage et al that the upstream end of the upper conveyor may

extend upstream of the upstream end of the lower conveyor without adversely affecting operation of the conveyors while allowing different sizes of pulleys to be used.

Allowable Subject Matter

Claims 32, 34-37, and 40-42 would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

Claims 48 and 69-71 are allowed.

Response to Arguments

Applicants' arguments filed 4/18/05 have been fully considered but they are not persuasive.

Applicants argue, concerning claims 17 and 47, that the upstream end of the upper conveyor (including chain 59) of Gage et al is not spaced upstream of the upstream entrance end of lower conveyor (including chain 65). However, as can be seen in Fig. 1 of Gage et al, the right (upstream) end of the upper conveyor extends to the right (upstream) of the right end of lower conveyor 64. The downstream end of the upper conveyor is also spaced upstream of the downstream end of the lower conveyor as required by claim 18. The spacing between the downstream ends is greater than the spacing between the upstream ends as required by claim 19.

With regard to Applicants' argument concerning claim 21 that it is not old and well known to guide material using idle rollers, Applicants' attention is directed to class 226, subclass 196.1, class 242, subclass 615.2, and class 193, subclass 35 and indented

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subclasses for numerous examples of the use of idle rollers for guiding material of various types. It would have been well within the level of skill of an ordinary artisan to provide idle rollers at the entrance to the first loading conveyor or to make the driven roller an idle roller to adapt the apparatus for different installations with varying height differences between the material supply source (e.g., table 14 of Wallace) and the conveyor inlet and to adapt the apparatus to the strength and weight of the food strand. As would have been clear to an ordinary artisan, stronger and lighter food strands would require less assistance in addition to the pull of the feed conveyors to feed them to the conveyor inlet without breakage and driven rollers would not be necessary. Greater spacing between the supply table and the conveyor would make added idle rollers desirable.

With regard to claim 24, it is noted that the rearward direction as defined in the claim could be the (diagonal) direction from the downstream pulley of the first (lower) conveyor toward the upstream pulley of the second (upper) conveyor. If this is the rearward direction, then the upstream pulley of the second (upper) conveyor is located rearwardly of the upstream pulley of the first (lower) conveyor.

Applicants' argue that the structures of claims 25 and 26 are not suggested by the applied art. However, as discussed above, the provision of idle rollers would have been obvious and locating them upstream and below the entrance of the conveyors would have been obvious to support and guide the food strand from various sizes and heights of supply tables or other sources.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Haugland whose telephone number is (571) 272-6945. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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sjh
7/12/05

Kathy Matecki
KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600